

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

UNITED STATES OF AMERICA,

Plaintiff,

V.

THOMAS ERIC CONMY,

## ORDER

Defendant.

13 Before the Court is Defendant's Motion Pursuant to 28 U.S.C. § 2255(f)(4) (#144). Also  
14 before the Court is Defendant's Motion for Discovery (#145).

## I. Background

16 In 2006, a jury convicted Defendant of possession with the intent to distribute a  
17 controlled substance, manufacture of methamphetamine, and possession of a firearm by a  
18 convicted felon (#63). Defendant received two life sentences for the drug-related charges and  
19 120 months imprisonment for the firearms violation (#80). Defendant appealed (#82), but the  
20 Ninth Circuit upheld this Court's judgment (#95).

21 Defendant filed a § 2255 motion (#100) and an amended § 2255 motion (#104). The  
22 Court denied both motions (#114). Defendant appealed the Court's decision (#120). The Ninth  
23 Circuit dismissed Defendant's appeal (#127).

24       Nearly a year later, Defendant filed a complaint in the District of Columbia (#1 in 2:15-  
25       cy-00495-KJD-VCE). The District noted that Defendant's claims properly arose under 28 U.S.C.

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1 § 2255 and transferred the case to the District of Nevada (#4 in 2:15-cv-00495-KJD-VCF).  
2 Defendant asked this Court to construe his complaint as a § 2255 motion (#7 in 2:15-cv-00495-  
3 KJD-VCF). The Court did so, but denied the § 2255 motion because it was not properly certified  
4 as required by 28 U.S.C. § 2255(h) (#9 in 2:15-cv-00495-KJD-VCF). Defendant then filed the  
5 present motions.

6 **II. Analysis**

7 This is Defendant's third § 2255 motion filed with this Court. 28 U.S.C. § 2255 provides  
8 that:

9 (h) A second or successive motion must be certified as provided in section 2244 by a  
10 panel of the appropriate court of appeals to contain—

11 (1) newly discovered evidence that, if proven and viewed in light of the evidence  
12 as a whole, would be sufficient to establish by clear and convincing evidence that  
no reasonable factfinder would have found the movant guilty of the offense; or

13 (2) a new rule of constitutional law, made retroactive to cases on collateral review  
14 by the Supreme Court, that was previously unavailable.

15 As this Court previously noted,<sup>1</sup> the Ninth Circuit has not certified a second or successive  
16 motion. The Court consequently denies Defendant's third § 2255 Motion. Because Defendant's  
17 third § 2255 Motion is denied, Defendant's Motion for Discovery is moot.

18 **III. Conclusion**

19 Accordingly, it is **HEREBY ORDERED** that Defendant's Motion Pursuant to 25 U.S.C.  
20 § 2255(f)(4) (#144) is **DENIED**;

21 **IT IS FURTHER ORDERED** that Defendant's Motion for Discovery (#145) is  
22 **DENIED** as moot;

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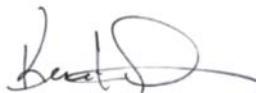
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26 <sup>1</sup> See #9 in 2:15-cv-00495-KJD-VCF.

1 **IT IS FURTHER ORDERED** that Defendant is **DENIED** a certificate of appealability.

2 DATED this 11th day of June 2015.

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6 Kent J. Dawson  
7 United States District Judge  
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